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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,210	03/10/2004	Mark R. Adler	042933/273558	4173
826 7590 09/29/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
EXAMINER				
NGUYEN, TU X				
ART UNIT		PAPER NUMBER		
2618				
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09/29/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/797,210

**Applicant(s)**

ADLER, MARK R.

**Examiner**

TU X. NGUYEN

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-28 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's arguments filed 7/8/08 have been fully considered but they are not persuasive.

In response to Applicants argument Black does not teach or suggest sending a processor-generated, coded tone representative of a separate multimedia object, or in turn, decoding the coded tone to identify and present the respective multimedia object, the Examiner respectfully disagrees, Black discloses a multi-media control device fig.3, element 60 and fig.4 element 170, receives speech commands from a user; however, device 60 is the one to generated code tone or decoding tone to identify and present the respective multimedia object.

Applicants argue Black does not disclose any transfer audio signals from the audio system back to the multimedia control device, the Examiner disagrees, Black disclose audio informational data via a bi-directional communication channel (par.024).

Applicants argue in paragraph 025, audio sensor and a communication channel is not the same, the Examiner agrees, the audio sensor and a communication channel are different ports provided by the media device.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-28 rejected under 35 U.S.C. 102(e) as being anticipated by Black et al. (US Pub. 2005/0038660).

Regarding claims 1-28, Black et al. disclose an apparatus comprising:

a processor configured to generate at least one coded tone, the processor also being configured to send audio to another apparatus over an audio channel (see par.024), wherein the audio selectively comprises at least one of voice communication or at least one coded tone (see par.029), the at least one coded tone being representative of at least one separate multimedia object (see par.029), and wherein the processor is configured to send the audio such that, when the audio comprises at least one coded tone, the other apparatus is configured to decode the at least one coded tone to thereby identify the at least one multimedia object represented by the at least one coded tone, and to thereafter present the identified at least one multimedia object (see par.049-060).

Regarding claims 2, 8, 14 and 20, Black et al. disclose the processor is configured to send audio to the other apparatus during an exchange of audio communication between the processor and the other apparatus over the audio channel (see par.052).

Regarding claims 3, 9, 15 and 21, Black et al. disclose the processor is further configured to present at least one multimedia object as audio communication is exchanged with the other apparatus, and wherein the processor is configured to send to the other

apparatus at least one coded tone representative of the at least one multimedia object presented at the processor (see par.029).

Regarding claims 4, 10, 16 and 22, Black et al. disclose the processor is configured to send the at least one coded tone representative of the at least one multimedia object presented by the processor in response to presenting the at least one multimedia object (see par.029).

Regarding claims 5, 11, 17-18 and 23-24, Black et al. disclose the processor is configured to send the audio to the other apparatus such that, when the audio comprises at least one coded tone, the other apparatus is configured to retrieve, from memory, the identified at least one multimedia object before presenting the identified at least one multimedia object (see par.067).

Regarding claims 6 and 12, Black et al. disclose the processor is configured to send at least one multimedia object to the other apparatus over a data channel before sending audio to the other apparatus over the audio channel, the received at least one multimedia object including the identified at least one multimedia object (see par.069).

Regarding claim 7, Black et al. disclose a controller configured to receive audio over and an audio channel, wherein the audio selectively comprises at least one of voice communication or at least one coded tone, the at least one coded tone having been generated by a communication system in communication with the apparatus, the at least one coded tone being representative of at least one separate multimedia object, wherein the controller is configured to communicate with a synchronization agent to enable the synchronization agent, when the audio comprises at least one coded tone, the

synchronization agent is configured to decode the at least one coded tone to thereby identify the at least one multimedia object represented by the at least one coded tone, and to thereafter present the identified at least one multimedia object (see par.029, 049-60).

Regarding claim 13, Black et al. disclose a method of synchronizing at least one distributively presented multimedia object, the method comprising: receiving audio at another apparatus over an audio channel, wherein the audio selectively comprises at least one of voice communication or at least one coded tone, the at least one coded tone having been generated by a communication system in communication with the apparatus, the at least one coded tone being representative of at least one separate multimedia object; and when the audio comprises at least one coded tone, decoding the at least one coded tone to thereby identify the at least one multimedia object represented by the at least one coded tone; and driving the other apparatus to present the identified at least one multimedia object (see par.029, 049-60).

Regarding claim 19, Black et al. disclose a computer program product for synchronizing at least one distributively presented multimedia object, the computer program product comprising at least one computer-readable storage medium having computer-readable program code portions stored therein, the computer-readable program code portions comprising: a first executable portion configured to receive audio at another apparatus over an audio channel, wherein the audio selectively comprises at least one of voice communication or at least one coded tone, the at least one coded tone being representative of at least one separate multimedia object; and when the audio comprises at least one coded tone, a second executable portion configured to decode the at least one coded tone to

thereby identify the at least one multimedia object represented by the at least one coded tone; and a third executable portion configured to drive the other apparatus to present the identified at least one multimedia object (see par.029, 046, 049-60).

Regarding claims 25-28, Black et al. disclose the processor is configured to send the audio to the other apparatus for output by the other apparatus, the other apparatus including an audio sensor enabling detection of whether the audio includes the at least one coded tone as the other apparatus outputs the audio (see par.025).

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu X Nguyen/

Patent Examiner, Art Unit 2618

9/16/08